

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JONATHAN ESCOBAR,

Plaintiff

v.

STATE OF NEVADA,

Defendant.

Case No. 2:21-cv-00216-GMN-EJY

ORDER

I. DISCUSSION

On February 9, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a Notice of Motion and Motion for Order to Return Seized Property (ECF Nos. 1-1, 1-2) and a second Notice of Motion and Motion for Order to Return Seized Property (ECF No. 1-2). However, Plaintiff has not filed a complaint nor an application to proceed *in forma pauperis* in this matter.

The Court notes that Plaintiff's filings at ECF Nos. 1-1 and 1-2 are on forms referencing the Eighth Judicial District Court, Clark County case number. In the event Plaintiff intends to file his action in the United States District Court, Plaintiff is required to use this Court's approved application to proceed *in forma pauperis* form. If, however, Plaintiff's intention is to submit his filings to the Eighth Judicial District Court, Clark County, Plaintiff must submit his action directly to that court.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **April 23, 2021** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and
- (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff must still submit an inmate account statement for the dates he has been present at the facility.

The Court grants Plaintiff a **one-time** extension to file a complaint and a fully complete application to proceed *in forma pauperis* containing all three of the required documents or in the alternative, pay the full \$402 filing fee for this action on or before **April 23, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff is unable to file a complaint and a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing fee on or before **April 23, 2021**, the Court will recommend dismissal of this case without prejudice allowing Plaintiff to file a new case with the Court when Plaintiff is able to file a complaint and acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff is able to file a complaint and has all three documents needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **April 23, 2021** to proceed with this case.

II. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff will submit a complaint to this Court on or before **April 23, 2021**.

IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same.

1 IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved
2 form application to proceed *in forma pauperis* by an inmate, as well as the document entitled
3 information and instructions for filing an *in forma pauperis* application.

4 IT IS FURTHER ORDERED that on or before **April 23, 2021**, Plaintiff shall either pay the
5 full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative
6 fee) or file with the Court:

7 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
8 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
9 3);

10 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
11 (i.e. page 4 of this Court's approved form); and,

12 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
13 **six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff
14 must still submit an inmate account statement for the dates he has been present at the facility.

15 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully complete
16 application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for
17 a civil action on or before **April 23, 2021**, the Court will recommend dismissal of this action without
18 prejudice for Plaintiff to refile the case with the Court, under a new case number, when Plaintiff is
19 able to file a complaint and has all three documents needed to file a complete application to proceed
20 *in forma pauperis* or pays the full \$402 filing fee.

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22 DATED this 22nd day of February 2021.

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26 ELAYNA J. YOUCHAH
27 UNITED STATES MAGISTRATE JUDGE
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